

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

**WACHOVIA BANK, NATIONAL
ASSOCIATION, a national banking
association,**

Plaintiff,

V.

**ONYX CAPITAL VENTURES, L.L.C., a
limited liability company,**

Defendant.

V.

**BANK OF AMERICA, NATIONAL
ASSOCIATION**

Garnishee.

Civil Action Number: 2:07-mc-03364-MHT

AFFIDAVIT AND RETURN OF SERVICE

STATE OF DELAWARE)
)
NEW CASTLE COUNTY)

Before me, this undersigned authority, personally appeared ADAM Golden,
who, being known to me and being by me duly sworn, deposes and says as follows:

1. I, Adam Golden, am over the age of 19 years, not a party to this litigation and qualified under Fed.R.Civ.P. 4 to be a special process server.

2. I served the attached documents upon Onyx Capital Ventures, L.L.C. by delivering the same to The Corporation Trust Company, Registered Agent at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801 on 5-22, 2007 at 2 o'clock P. m.

FURTHER THE AFFIANT SAITH NAUGHT.



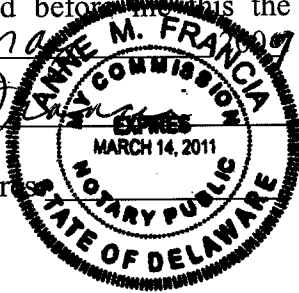
AFFIANT

Sworn and subscribed before me this the
22 day of May

Anne M. Francis

NOTARY PUBLIC

My Commission Expires



[SEAL]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

WACHOVIA BANK, NATIONAL
ASSOCIATION, a national banking
association,

Plaintiff,

v.

ONYX CAPITAL VENTURES, L.L.C., a
limited liability company,

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) Case Number: 2:07-mc-03364-MHT
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)

Defendant.

WRIT OF GARNISHMENT

TO THE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF ALABAMA,
OR TO ANY OTHER AUTHORIZED OFFICER, GREETINGS:

You are hereby commanded forthwith to summon Bank of America, National Association, as Garnishee in the above-styled cause, to appear within thirty (30) days from the date of service of this process, before the United States District Court for the Middle District of Alabama, at Montgomery, Alabama, and file a written answer, upon oath:

- (1) as to whether the Garnishee is or was indebted to the defendant Onyx Capital Ventures, L.L.C. at the time it received this process, or when it makes its answer, or during the intervening time, and in what sum or sums;
- (2) whether it will be indebted to Onyx Capital Ventures, L.L.C. in the future by existing contract or
- (3) whether by existing contract it is liable to Onyx Capital Ventures, L.L.C. for the delivery of personal property or for the payment of money which may be discharged by the delivery of personal property or which may be payable in personal property; and
- (4) whether it has or not in its possession or under its control real or personal property or things in action belonging to the said defendant.

Mailing the notarized answer to the Clerk of the Court constitutes making a proper appearance in the court.

The United States Marshall, or other authorized officer, is hereby commanded to serve a copy of the above Writ of Garnishment on the Garnishee, Bank of America, National Association, c/o The Corporation Company, its Registered Agent, at 2000 Interstate Park Drive, Suite 204, Montgomery, Alabama 36109, and make return of this Writ and the execution thereof, according to law.

Issued this the 17th day of May, 2007.

DEBRA P. HACKETT, CLERK
UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
ONE CHURCH STREET
MONTGOMERY, AL 36104
(334) 954-3600

By: William C. Davis
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

**WACHOVIA BANK, NATIONAL
ASSOCIATION, a national banking
association,**

Plaintiff,

v.

**ONYX CAPITAL VENTURES, L.L.C., a
limited liability company,**

Defendant.

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) **Case Number: 2:07-mc-03364-MHT**
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NOTICE TO DEFENDANT OF WRIT OF GARNISHMENT

**TO: Onyx Capital Ventures, L.L.C.
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801**

PLEASE TAKE NOTICE that copies of the attached Writ of Garnishment and Affidavit in Support of Garnishment have been issued to Garnishee Bank of America, in the above-styled case. Please note your rights set forth below.

RIGHT TO CLAIM EXEMPTION FROM GARNISHMENT

A process of garnishment has been delivered to you. This means that a Court may order your wages, money in a bank, sums owed to you, or other property belonging to you, to be paid into Court to satisfy a judgment against you.

Laws of the State of Alabama and of the United States provide that in some circumstances certain money and property may not be taken to pay certain types of court judgments, because certain money or property may be "exempt" from garnishment. For example, under State law, in some circumstances, up to \$3,000.00 in wages, personal property, including money, bank accounts, automobiles, appliances, etc., may be exempt from process of garnishment. Similarly, under Federal law, certain benefits and certain welfare payments may be exempt from garnishment. Benefits and payments ordinarily exempt from garnishment include, for example, Social Security payments, SSI payments, veteran's benefits, AFDC (welfare) payments, unemployment compensation payments and workers' compensation payments.

THESE EXAMPLES ARE FOR PURPOSES OF ILLUSTRATION ONLY. WHETHER YOU WILL BE ENTITLED TO CLAIM ANY EXEMPTION FROM THE PROCESS OF GARNISHMENT, AND, IF SO, WHAT PROPERTY MAY BE EXEMPT, WILL BE

DETERMINED BY THE FACTS IN YOUR PARTICULAR CASE. IF YOU ARE UNCERTAIN AS TO YOUR POSSIBLE EXEMPTION RIGHTS, YOU SHOULD CONSULT A LAWYER FOR ADVICE.

TO CLAIM ANY EXEMPTION THAT MAY BE AVAILABLE TO YOU, YOU MUST PREPARE A "CLAIM OF EXEMPTION" FORM LISTING ON IT ALL YOUR WAGES AND PERSONAL PROPERTY; HAVE THE CLAIM OF EXEMPTION NOTARIZED; AND FILE IT IN THE CLERK'S OFFICE. ALSO, IT IS YOUR RESPONSIBILITY TO MAIL OR DELIVER A COPY OF THE CLAIM OF EXEMPTION TO THE PLAINTIFF WHO HAS A JUDGMENT AGAINST YOU. YOU MUST INDICATE ON THE CLAIM OF EXEMPTION THAT YOU FILE IN THE CLERK'S OFFICE WHETHER YOU MAILED OR DELIVERED THE COPY TO THE PLAINTIFF AND THE DATE ON WHICH YOU MAILED OR DELIVERED IT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED ASSISTANCE YOU SHOULD SEE A LAWYER.

If you file a claim of exemption, the plaintiff will have approximately ten (10) days to file a "contest" of your claim of exemption. If a contest is filed; a Court hearing will be scheduled and you will be notified of the time and place of the hearing. If the plaintiff does not file a contest, the property claimed by you as exempt will be released from the garnishment.

If you do not file a claim of exemption, your property may be turned over to the court and paid to the plaintiff on the judgment against you.

TO PROTECT YOUR RIGHTS, IT IS IMPORTANT THAT YOU ACT PROMPTLY. IF YOU HAVE ANY QUESTIONS, YOU SHOULD CONSULT A LAWYER.

**DEBRA P. HACKETT, CLERK
UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
ONE CHURCH STREET
MONTGOMERY, AL 36104
(334) 954-3600**

By: 

Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

RECEIVED

WACHOVIA BANK, NATIONAL
ASSOCIATION, a national banking
association,

Plaintiff,

v.

ONYX CAPITAL VENTURES, L.L.C., a
limited liability company,

Defendant.

Case Number: 2:07-mc-03364-MHT

2007 MAY 17 A 11:03

CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

APPLICATION FOR WRIT OF GARNISHMENT

Plaintiff Wachovia Bank, National Association (the "Judgment Creditor") files this Application for Writ of Garnishment to the Clerk of the United States District Court for the Middle District of Alabama to issue a Writ of Garnishment upon the Judgment entered against the defendant Onyx Capital Ventures, L.L.C. (the "Judgment Debtor"), whose address is Onyx Capital Ventures, L.L.C., c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

On March 29, 2007, a Judgment was rendered by the United States District Court for the Northern District of Alabama in favor of above named plaintiff Wachovia Bank, National Association, in the amount of \$1,700,000.00 with interest in the amount of \$186,516.03 plus attorney's fees and costs in the amount of \$9,775.00 for a total judgment of \$1,896,291.03, which Judgment was duly registered with the United States District Court for the Middle District of Alabama on the 10th day of May 2007.

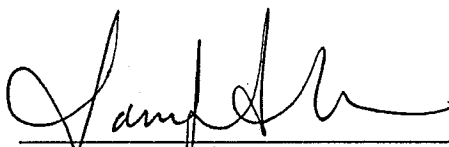
The Judgment Debtor is justly indebted to the Judgment Creditor in the amount of said Judgment, plus post-judgment interest at the prevailing legal rate and costs of this writ, less \$0.00 paid; and Bank of America, National Association (the "Garnishee"), is believed to be indebted to the Judgment Debtor, or to have effects of the Judgment Debtor, in its possession or control.

For the foregoing reasons Wachovia Bank, Nation Association, makes application to the Clerk of Court to issue a Writ of Garnishment upon the Judgment entered against the defendant Onyx, Capital Ventures, L.L.C.

The name and address of the Garnishee or it's authorized agent is:

Bank of America, National Association
The Corporation Trust Company
2000 Interstate Park Drive, Suite 204
Montgomery, Alabama 36109

Dated this the 16th day of May 2007.

A handwritten signature in black ink, appearing to read 'Jennifer A. Harris', written over a horizontal line.

Jennifer A. Harris, Attorney for Wachovia
Bank, National Association

OF COUNSEL:

BURR & FORMAN LLP
3400 Wachovia Tower
420 20th Street North
Birmingham, Alabama 35203
Phone: (205)251-3000
Fax: (205)458-5100
E-mail: jharris@burr.com

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

WACHOVIA BANK, NATIONAL
ASSOCIATION, a national banking
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Plaintiff,

v.

ONYX CAPITAL VENTURES, L.L.C., a
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AFFIDAVIT FOR GARNISHMENT ON JUDGMENT

STATE OF ALABAMA)

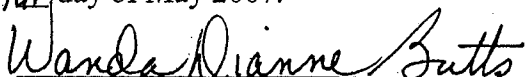
JEFFERSON COUNTY)

Before me, the undersigned authority, personally appeared Jennifer A. Harris of Burr & Forman LLP, 420 North 20th Street, Suite 3400, Birmingham, Alabama 35203, who being by me duly sworn deposes and says as follows:

I am an attorney for the above-named plaintiff; on the 29th day of March, 2007 a judgment was rendered by the United States District Court for the Northern District of Alabama in favor of above named plaintiff Wachovia Bank, National Association (the "Judgment Creditor"), and against the above-named defendant Onyx Capital Ventures, L.L.C. (the "Judgment Debtor"), in the amount of \$1,700,000.00 with interest in the amount of \$186,516.03 plus attorneys' fees and costs in the amount of \$9,775.00 for a total judgment of \$1,896,291.03, which judgment was duly registered with the United States District Court for the Middle District of Alabama on the 10th day of May 2007. The Judgment Debtor is justly indebted to the Judgment Creditor in the amount of said Judgment, plus post-judgment interest at the prevailing legal rate and costs of this writ, less \$0.00 paid; and Bank of America, National Association, hereinafter referred to as the Garnishee, is believed to be indebted to the Judgment Debtor, or to have effects of the Judgment Debtor, in its possession or control, and I believe process of garnishment against the Garnishee is necessary to obtain satisfaction of said Judgment.


Affiant

SWORN TO AND SUBSCRIBED BEFORE me this
11th day of May 2007.



NOTARY PUBLIC

My Commission Expires: 11-18-08

Wachovia Bank, National Association, et. al., Plaintiff(s)
vs.
Onyx Capital Ventures, L.L.C., et. al., Defendant(s)



Service of Process by
APS International, Ltd.
1-800-328-7171

APS International Plaza
7800 Glenroy Road
Minneapolis, MN 55439

APS File #: 083374-0001

AFFIDAVIT OF SERVICE -- Corporate

Service of Process on:

--Onyx Capital Ventures, L.L.C., R/A The Corporation
Trust Company

Court Case No. 2:07-mc-03364-MHT

BURR & FORMAN
Susan Lester
420 N. 20th St., Suite 3400
Birmingham, AL 35203

State of: DELAWARE) ss.

County of: NEW CASTLE)

Name of Server: ADAM GOLDEN, undersigned, being duly sworn, deposes and says
that at the time of service, s/he was of legal age and was not a party to this action;

Date/Time of Service: that on the 22nd day of May, 20 07, at 2:00 o'clock P. M

Place of Service: at 1209 Orange Street, in Wilmington, DE 19801

Documents Served: the undersigned served the documents described as:
Notice to Defendant of Writ of Garnishment, Writ of Garnishment;
Application for Writ of Garnishment; Affidavit for Garnishment on Judgement

Service of Process on: A true and correct copy of the aforesaid document(s) was served on:
Onyx Capital Ventures, L.L.C., R/A The Corporation Trust Company

Person Served, and
Method of Service: By delivering them into the hands of an officer or managing agent whose name and
title is: SCOTT LASCALA

Description of
Person Receiving
Documents: The person receiving documents is described as follows:
Sex M; Skin Color W; Hair Color BROWN; Facial Hair _____
Approx. Age 30's; Approx. Height 6'; Approx. Weight 230 lbs

☐ To the best of my knowledge and belief, said person was not engaged in the US
Military at the time of service.

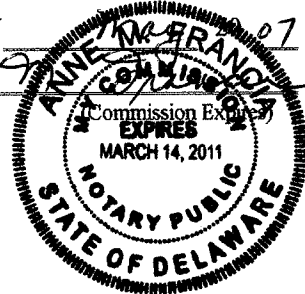
Signature of Server: Undersigned declares under penalty of
perjury that the foregoing is true and correct.

[Signature] 5/22/07
Signature of Server

Subscribed and sworn to before me this

22 day of

June
Notary Public



APS International, Ltd.